

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

<p>DONNIE GREEN, Plaintiff,</p> <p>vs.</p> <p>CAPITAL ONE, Defendant.</p>	<p>ORDER</p> <p>Case No. 2:11-CV-311-TC</p>
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On December 7, 2011, United States Magistrate Judge David Nuffer issued an Order To Show Cause¹ (OSC) why this case should not be dismissed with prejudice because Plaintiff Donnie Green failed to appear at the Initial Pretrial Conference (which was properly noticed and scheduled), and failed to participate in the schedule planning process as required by the notices of Initial Pretrial Conference. Mr. Green did not respond to the OSC.

Judge Nuffer then issued a Report and Recommendation to dismiss the case without prejudice.² Mr. Green did not object to the Report and Recommendation (R&R). Defendant Capital One did, however, object to a portion of the R&R. Specifically, Capital One contends that because the OSC said dismissal would be with prejudice, the R&R incorrectly recommended that the case be dismissed without prejudice.³ Capital One points out the numerous times that

¹Docket No. 27.

²Docket No. 32.

³See Docket No. 33.

Mr. Green has failed to respond to the court or to counsel for Capital One, and it contends that

Mr. Green has essentially abandoned his case.

Based on the docket and representations from counsel for Capital One, the court hereby adopts the R&R in part, modifying it to dismiss the case WITH PREJUDICE for Plaintiff's failure to prosecute and respond to court orders. The Clerk of the Court is directed to close the case.

SO ORDERED this 1st day of February, 2012.

BY THE COURT:



TENA CAMPBELL
U.S. District Court Judge